

**POLICY AND PROCEDURE**

<b><u>POLICY TITLE:</u></b> DSAMH PCWFD Waiver Processing Policy	<b><u>POLICY #:</u></b> DSAMH025
<b><u>PREPARED BY:</u></b>	<b><u>DATE ISSUED:</u></b>
<b><u>RELATED POLICIES:</u></b>	<b><u>REFERENCE:</u></b>  <a href="#">Delaware Regulations: Administrative Code: Title 16: Department of Health and Social Services: Division of Substance Abuse and Mental Health 6001 Substance Abuse Facility Licensing Standards Section 4.15</a> and <a href="#">Delaware Adult Behavioral Health DHSS Service Certification and Reimbursement Manual.</a>
<b><u>DATES REVIEWED:</u></b>	<b><u>DATES REVISED:</u></b> 04/13/2022
<b><u>APPROVED BY:</u></b>  DocuSigned by:  1B71C05196B24CA... 5/24/2022   7:32 AM PDT	<b><u>NOTES:</u></b> <input type="checkbox"/> DSAMH Internal Policy <input checked="" type="checkbox"/> DSAMH Operated Program <input checked="" type="checkbox"/> DSAMH State Providers <input type="checkbox"/> Delaware Psychiatric Center <input type="checkbox"/> Targeted Use Policy (Defined in scope)

I. **PURPOSE:** The purpose of this policy is to ensure the Policy Compliance and Workforce Development (PCWFD) Bureau reviews each request critically and provides the DSAMH Director with a recommendation to support or deny the waiver request.

II. **POLICY STATEMENT:** DSAMH requires any facility or program Licensed or Medicaid certified by DSAMH to meet all required regulations. A request for a waiver must demonstrate significant hardship for the program to meet requirements. The request must also be reasonable in scope and duration and not jeopardize clients' health, safety, and well-being. The PCWFD bureau will review any request for a license or Medicaid certification waiver and recommend the Division Director's acceptance or denial of the waiver request within ten (10) business days from receipt of the request. No waiver shall be granted for a period of over 365 days.

III. **DEFINITIONS:**

“**CBHSD**” means the Bureau of Community Behavioral Health and Social Determinants.

“**DSAMH**” means the Division of Substance Abuse and Mental Health.

“**PCWFD**” means the Bureau of Policy, Compliance, and Workforce Development.

“**PDSA**” means a business term used for a short-term pilot initiative to explore different service delivery models and stands for “Plan, Do, Study, Act.”

"**Waiver**" means the time limited exemption from compliance with a requirement of standards or regulations.

IV. **SCOPE:** Any program licensed or certified by DSAMH PCWFD may request a waiver. A waiver provided by DSAMH for licensure or certification does not waive any DSAMH contractual requirements. The DSAMH contract waiver request requires separate approval by CBHSD and DSAMH contracts unit in the form of written approval or contract amendment. DSAMH cannot grant waivers for licenses provided by other departments or agencies.

V. **PROCEDURES/RESPONSIBILITIES:**

A. **Provider education and support:** A provider may initiate a discussion with the Policy and Compliance Unit on the need for a waiver. A provider shall not submit a waiver request to remediate the findings of an audit. However, DSAMH will consider requests for waivers following an audit on a case-by-case basis. Once the provider confirms the need for a waiver, the provider shall take the following steps to formally request a waiver:

1. Submit a written request to DSAMH Chief of Policy and Compliance and DSAMHQA@delaware.gov defining the specific waiver.
2. Describe the minimum requirements of waiver request (see Section V. B).
3. PDSA: Waivers may also be granted when DSAMH and provider agree to a PDSA to explore alternative models of service delivery.
4. DSAMH does not provide waivers for programs licensed by another authority or Division but audited by DSAMH, such as Group Homes licensed by the Division of Health Care Quality.
  - a. In the event a provider needs to request a waiver for a non- DSAMH-licensed program, the provider shall notify DSAMH of the intent to seek a waiver, and follow the waiver request procedures established by the regulatory authority. DSAMH will provide advice and consent to the other authority regarding their waiver recommendations.

B. **Waiver letter requirements:** The information below should be included in a waiver request to DSAMH. This letter must be publicly displayed (preferably both virtually and physically) on provider letterhead to allow the clients to provide feedback regarding the waiver request:

1. Defines specific licensure standard or Medicaid certification requirement that is a severe hardship for the program,
2. Defines the nature of hardship the program has meeting requirements,
3. Defines the impact to the program and clients if the waiver is declined,
4. Defines how the waiver, if approved, will benefit client services and the agency,
5. Defines the duration of the waiver request. All waiver requests shall be for the minimum necessary time, not to exceed 365 days,
6. Defines steps that will be taken to ensure waiver will not have an impact on the health, safety, and well-being of clients,
7. Defines how the program will monitor services for any unintended or unforeseen consequences of waiver approval,

8. Defines how the program will document utilization and progress of the waiver, including timeframes to provide updates to DSAMH,
9. Defines how the program will take steps to exit from waiver by achieving changes needed to meet requirements,
10. A statement that the program understands the DSAMH Division Director may rescind waiver at any time if the program is not fulfilling steps to correct deficiencies and/or DSAMH identifies waiver is no longer appropriate or poses an unnecessary risk to clients' safety, health, or well-being,
11. A statement that the program will notify DSAMH ten (10) business days before ending waiver status in writing or request an extension at least ten (10) business days before the end date of the provided waiver,
12. A statement that program will post notice of waiver request in a public setting, and
13. A statement that the program will post the waiver approval letter, when approved by DSAMH, for the duration of the waiver period or until its rescindment by DSAMH or Program.

C. PCWFD Review Process: The following steps will be taken to process a waiver request:

1. PCWFD team will review and make a recommendation to PCWFD Bureau Chief of Policy and Compliance regarding approving or declining waiver request, including the following considerations:
  - a. The request has minimum information required (waiver letter requirements),
  - b. The request is reasonable in scope and duration,
  - c. The request does not jeopardize the health, safety, and well-being of clients,
  - d. PCWFD does not reasonably see any unintended consequences of approving the requested waiver,
  - e. PCWFD team review includes at least one subject matter expert from the subject matter area and one supervisor making a consensus recommendation to PCWFD Bureau Chief of Policy and Compliance or designee.

D. DSAMH Division Director Review: PCWFD Bureau Chief of Policy and Compliance will provide DSAMH Division Director with the waiver request letter and PCWFD recommendation. Details and summary will include the following brief:

1. Approval or denial recommendation,
2. Justification for a recommendation,
3. If approving, a brief narrative on duration, scope, and the requirement for provider during waiver period in addition to requirements provider may have detailed in waiver request, and
4. If the waiver has applicability to other providers in the behavioral health system or requires notifications to other state entities.

VI. Policy Lifespan: Annual review and update as required dependent on state licensure standards or Medicaid Certification changes.

VII. References/Resources: See Reference section above for Delaware state code reference and Delaware Medicaid Reimbursement Manual Reference